

The war in Ukraine and associated risks of human trafficking and exploitation

A report from UCL

Comment from Focus on Labour Exploitation (FLEX), Rights of Women, Migrant Voice, Immigration Law Practitioners' Association, The Joint Council for the Welfare of Immigrants (JCWI) and Trades Union Congress on the Home Office response shared via the Vulnerability Advisory Group

26 September 2022

The Home Office response to the report of Dr Ella Cockbain and Dr Aiden Sidebottom, of UCL, following the roundtable convened by UCL together with the Office of the Independent Anti-Slavery Commissioner (IASC) on the war in Ukraine and associated risks of human trafficking and exploitation focused on five thematic areas. The five areas have already been covered in detail in the UCL report and we do not seek to attempt to build on the issues raised in this comment. Before providing any further comment in relation to the matters left unresolved in the report by the Modern Slavery Unit's response, we would welcome the Home Office's engagement with and response to the 25 policy recommendations made in that report. Furthermore, we look forward to the clarity promised by the Home Office in the Vulnerability Advisory Group meeting of 13 September 2022 to ascertain how our organisations can meaningfully and efficiently engage with the UK Government on vulnerability concerns arising from the Russian invasion of Ukraine.

However, at this juncture we want to record our disagreement with the Home Office's response on automatic data sharing with immigration enforcement within the fourth thematic area 'Insecurity, fear and the broader political climate around immigration and asylum create difficult conditions in which to respond'.

The Home Office response on automatic data sharing with immigration enforcement states:

'The Home Office's review, published in December 2021, concluded that the Government did not support a permanent cessation in data sharing. Instead, the Government undertook to develop a Migrant Victim Protocol which will provide relief from enforcement action and assurance to victims that there is a safe pathway to report crime.'

Fear of immigration action being taken against them could make victims more reluctant to seek help. However, a firewall could lead to delays in migrant victims being able to access vital information about their immigration status, including recourse to public funds, from the Home Office which may prolong their uncertainty and increase their vulnerability.'

The Home Office shares a commitment, with other agencies and authorities, to safeguarding any vulnerable individual encountered, with the sharing of information enabling organisations to perform an active collaborative role in protecting the wellbeing of migrants. Information sharing enables agencies and authorities to acquire a fuller understanding of a migrant's particular needs and circumstances which may assist in determining the most appropriate and effective intervention(s).'

We are concerned that this response displays a misunderstanding of the meaning and implications of secure reporting and ignores the considerable evidence previously put to the Home Office. Secure reporting does not mean '*a permanent cessation in data sharing*'. It means that when someone approaches the authorities to report a crime, or exploitative working conditions, they can be safe in the knowledge that their personal data will not be shared with other agencies, for example immigration enforcement, without their consent.

Secure reporting would not prevent anyone who reports a crime from giving consent for their personal data to be shared for purposes they agree to, such as to allow them 'to access vital information about their immigration status, including recourse to public funds, from the Home Office'. In fact, rather than 'prolonging uncertainty', secure reporting would facilitate individuals' confidence in coming forward and working with the authorities to access such data.

It is not correct to suggest that secure reporting would hinder the safeguarding of individuals. Again, it is the lack of secure reporting which prevents individuals from approaching the authorities for safeguarding support. Rather, secure reporting supports best practice as it necessitates the building of trust and securing of informed consent for personal data to be shared, ensuring that individuals have agency and are properly advised of their options and supported in decision making. The European Union Agency for Fundamental Rights' 2019 research on eight countries including the UK, found that migrant workers rank their insecure status as the main reason they chose not to report exploitation. In this sense, the Home Office's approach plays into the hands of exploiters who target those with insecure immigration status with impunity. The active involvement of immigration enforcement will have a detrimental effect on victims and witnesses with insecure or uncertain immigration status, leaving them unprotected.¹

The Immigration Enforcement Migrant Victims Protocol (also known as Migrant Victims Protocol) was hugely disappointing and heavily criticised by the women's sector supporting victims of gender based violence and modern slavery. The Latin American Women's Rights Service highlighted issues with data sharing calling for a firewall between safe reporting and immigration enforcement in their 2019 report 'Right to be believed'² and have continued to

¹ https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-fundamental-rights-report-2019_en.pdf

² <https://stepupmigrantwomenuk.files.wordpress.com/2019/05/the-right-to-be-believed-key-findings-final-1.pdf>.

campaign on this issue over the last few years. The Home Office have pressed on with their 'Migrant Victims Protocol' despite the outcome of the Super complaint lodged by Southall Black Sisters and Liberty in 2018.³ Her Majesty's Inspectorate of Fire and Rescue Services, the College of Policing and the Independent Office of Police Conduct concluded that data sharing causes significant harm to the public interest and that there should be a complete overhaul of data sharing policies.

The 'Migrant Victims Protocol' fails to address the concerns around automatic sharing of personal data. The Protocol offers no guarantees against automatic data sharing or the implications of this, but only delays this while an investigation is ongoing. Even such a delay is not guaranteed as an individual does not know if they will be considered a victim (or they may indeed be a witness and not a victim). It does nothing to address the issues around trust or the fact that not everyone is able to safely report crime.

Accordingly, we would invite the Home Office to revisit its response and open a forum for dialogue regarding automatic data sharing with immigration enforcement, including as it pertains to the Ukraine schemes.

³<https://www.libertyhumanrights.org.uk/issue/liberty-and-southall-black-sisters-super-complaint-on-data-sharing-between-the-police-and-home-office-regarding-victims-and-witnesses-to-crime/>.